IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 360 OF 1989
DATE OF DECISION: 09.08.2006

THE NEW INDIA ASSURANCE CO. LTD. AND ANOTHER

....APPELLANTS

VERSUS

SHRI GURBACHAN SINGH AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: MR. L.M. SURI, SR. ADVOCATE WITH
MS. RADHIKA SURI, ADVOCATE
FOR THE APPELLANTS

JUDGEMENT

This is a joint appeal filed by the insurance company and the owner of the vehicle.

At the very outset, Mr. L.M. Suri, learned senior counsel appearing for the appellants states that the appeal filed by the insurance company may be dismissed and the present appeal be considered only for the owner of the vehicle.

Accordingly, the appeal of the insurance company is dismissed.

The facts, giving rise to the present appeal, as evident from the award of the Tribunal, are that Manjit Singh deceased, who was 24 years of age, was returning to his shop situated in Sabzi Mandi, Chandigarh, riding on scooter bearing No. CHR 2800 on 1.11.1985. A motor-cycle bearing No. CHG 6688 came from the other side at a fast speed on the wrong side of the road rammed into the scooter of the deceased. The issue regarding negligence was decided in favour of the appellants-claimants and it was held that the accident occurred because of rash and negligent driving of the offending motor-cycle.

It is the quantum of compensation, on which account the present appeal has been filed by the owner of the offending motor-cycle.

The respondents are the parents of the deceased. Father of the deceased deposed that the deceased used to earn Rs. 1500/- to Rs. 1800/- per month. He further stated that the deceased, an unmarried young man, was working with him in the business of fruit commission agent and they were partners in the firm and the firm was income tax assessee. The same is not challenged by the appellant. Still without there being any basis, the Tribunal decreased income of the deceased to Rs. 1200/- per month and while calculating the dependency at Rs. 850/- per month, and applying a multiplier of 15, the compensation of Rs. 1,50,000/- was awarded by the Tribunal in total. The appellant, in the present case, argued that multiplier of 15 applied by the Tribunal cannot stand judicial scrutiny as the same is not in conformity with the law laid down by Hon'ble the Supreme Court in **Municipal Corporation of Greater Bombay vs. Shri Laxman Iyer and another** (2004-1) 136 Punjab Law Reporter 446, where in similar situation multiplier of 10 has been held to be just and fair for determination of compensation payable to the parents of the deceased.

I have heard counsel for the appellant.

From the evidence on record, it is evident that the deceased was working with his father as partner, carrying on business of fruit commission agent in the Fruit Market at Chandigarh. The statement of the father to the effect that the deceased was earning Rs. 1500/- to Rs. 1800/- per month has not been controverted by the appellant. That being so, there was no reason to reduce the income to Rs. 1200/- per month. The Tribunal has further failed to take care of future prospects of the deceased. Further the fact that the deceased was the young man helping his father in running the business and in the years to come he would have taken over and expanded the same, in my view, the income of the deceased should be taken at Rs. 2,000/- per month and even after applying a reasonable cut, his monthly dependency can very well be taken at Rs. 1100/- per month i.e. Rs. 13,200/- per annum. Keeping in view the judgment of Hon'ble the Supreme Court in Municipal Corporation of Greater Bombay's case (supra) by applying the multiplier of 10, the amount of compensation would come out to Rs. 1,32,000/-. To this, another sum of Rs. 3,000/- is added as funeral expenses and Rs. 15,000/- on account of loss of consortium and estate. Even by adopting this

reasonable view, the amount of compensation payable to the respondents would come out to Rs. 1,50,000/-. Accordingly, even if there is some mistake in applying the multiplier, in my view, as discussed above, the ultimate amount of compensation comes out to Rs. 1,50,000/- only.

Accordingly, while holding that the multiplier of 15 adopted by the Tribunal was not correct, it is directed that the amount of compensation payable to the respondents shall remain same.

Accordingly, the appeal of the company is dismissed.

August 9, 2006 **(Rajesh Bindal)**
gsv **Judge**